

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**IN RE: NEW ENGLAND
COMPOUNDING PHARMACY, INC.
PRODUCTS LIABILITY LITIGATION**

MDL No. 1:13-md-2419-FDS

This Document Relates To:

All Actions

**ORDER ON PENDING MOTIONS TO DISMISS,
FOR SUMMARY JUDGMENT, AND TO AMEND**

SAYLOR, J.

As of December 20, 2013, various plaintiffs in this litigation adopted some variation of the standardized short-form complaint that was filed in the master docket on November 5, 2013. The effect of those filings was to amend the original complaints that had been filed by those particular plaintiffs. The amendment of those complaints has rendered it unnecessary for the Court to rule on any pending motion to dismiss, motion for summary judgment, or motion to amend in those actions.

Attached hereto as Exhibit A is a list of 33 cases in which motions to dismiss, motions for summary judgment, or motions to amend are presently pending, and in which the relevant plaintiffs have adopted the short-form complaint after the filing of the motion. Each of those motions is hereby DENIED without prejudice to its renewal.

In addition, defendant Alaunus Pharmaceutical, LLC, filed two motions to dismiss in the docket of *Erkan v. New England Compounding Pharmacy, Inc., et al.*, 12-12052, before the creation of the MDL proceeding.

First, it moved to dismiss the complaint in *Martin, et al. v. New England Compounding Pharmacy, Inc., et al.*, 12-12055, but filed the motion in the docket for *Erkan*. (*Erkan* Dkt. No. 138). Plaintiff Martin has since filed a short-form complaint. The pending motion to dismiss by Alaunus is DENIED without prejudice to its renewal.

Second, it moved to dismiss the complaint in *McDow, et al. v. New England Compounding Pharmacy, Inc., et al.*, 12-12112, but filed the motion in the docket for *Erkan*. (*Erkan*, Dkt. No. 145). Plaintiff McDow has not filed an amended complaint. Defendant Alaunus is directed to refile the motion to dismiss in the docket for *McDow*, and the clerk is directed to terminate the motion in the docket for *Erkan* (no. 145). That motion shall remain pending.

So Ordered.

/s/ F. Dennis Saylor
F. Dennis Saylor IV
United States District Judge

Dated: December 26, 2013

APPENDIX A

Plaintiff Name	Case Number	Docket Nos.
Trope et al.	13-10345	19
Rhodes	13-10350	16
Keller	13-10358	17
Tacy	13-10359	21
Raeder	13-10360	16
Baer	13-10361	24
Kniffen	13-10362	12
Maloney	13-10364	16
Legg	13-10365	16
Islas	13-10366	16
Ellison	13-10367	12
Jewel	13-10369	12
Rohrer et al.	13-10372	18
Hartman	13-10374	26
Marko et al.	13-10404	31
Pennington	13-10406	34
Hannah	13-10407	36
Leaverton et al.	13-10408	17
Jones	13-10409	19
Ramos	13-10410	19
Rios et al.	13-10411	18
Rivera et al.	13-10412	18
Tolotti et al.	13-10413	17
Tayvinsky et al.	13-10414	18
Zavacki et al.	13-10441	17
Letizia et al.	13-10442	21

Gould et al.	13-10444	25
Tisa et al.	13-10446	16
Normand et al.	13-10447	18
Raiff	13-10508	12
Carman	13-12238	5, 44
Barger	13-12619	48
Besaw	13-12604	44